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 17 of all others similarly situated

18 **UNITED STATES DISTRICT COURT**

19 **SOUTHERN DISTRICT OF CALIFORNIA**

20	DONNA R. NELSON, an individual and on	)	CASE NO.: 07-CV-2367- LAB(RBB)
21	behalf of the general public,)	
22	Plaintiff,	)	JOINT MOTION OF ALL PARTIES TO
23	vs.	)	TAKE DEFENDANT'S MOTION TO
24	BIC USA, INC., a Delaware corporation, and	)	DISMISS OFF CALENDAR TO PERMIT
25	DOES 1 through 100, inclusive,	)	PREPARATION OF A SETTLEMENT
26	Defendants.	)	AGREEMENT AND SUBMISSION OF
27		)	A JOINT MOTION TO DISMISS
28		)	Judge: Hon. Larry A Burns
		)	Ctrm: Room 9 – 2 nd Floor
		)	Magistrate Judge: Hon. Ruben B. Brooks
		)	Ctrm: Room B – 1 st Floor

1 WHEREAS defendant's previously filed motion to dismiss the claims on the ground that
2 they are preempted by federal law is set for a hearing date of September 8, 2008; and

3 WHEREAS the parties have tentatively agreed to the essential terms pursuant to which
4 they will settle and dismiss this case with prejudice, and they anticipate completing the required
5 documentation of the settlement terms and submission of a joint motion to dismiss by September
6 12, 2008; and

7 WHEREAS the parties wish to take the pending motion off calendar so the Court will not
8 have to unnecessarily review the motion papers and resolve the issues raised therein;

9 IT IS HEREBY STIPULATED that defendant's motion to dismiss shall, subject to
10 approval of this Court, be taken off calendar so that the parties may have the opportunity to
11 prepare a written settlement agreement and submit a joint motion to dismiss this case pursuant to
12 the terms of the agreement.

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15 Dated: August 28, 2008

GORDON & REES LLP

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17 By: S/ Richard Spirra
Kevin Alexander
Richard Spirra
Attorneys for Defendant
18 **BIC USA, INC.**

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21 Dated: August 28, 2008

DEL MAR LAW GROUP, LLP

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23 By: S/ John Donboli
John Donboli
JL Sean Slattery
Attorneys for Plaintiff
24 **DONNA R. NELSON**